IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 125 OF 2006
IN
NOTICE OF MOTION NO. 4042 OF 2005
IN
SUIT NO. 3449 OF 2005

1. Creative Eye Ltd. & 2 ors.] .. Appellants (Ori.Def.8 to 10)

Versus

1. Dinesh Gandhi & 9 ors.] .. Respondents (Ori.Plaintiff & Def.2-7, 11 & 12)

Mr. Shyam Diwan, senior counsel with Mr. Simil Purohit i/b Medialexicon for the appellants.

Mr. Virag Tulzapurkar, senior counsel with H.N. Thakore i/b M/s. Thakore Jariwala & Associates for the respondent No.1.

Mr. D.J. Khambatta, senior counsel with Vibhav Krishna i/b Juris Consillis for the respondent No.2.

Dr. Virendra Tulzapurkar, senior counsel with Sanjay Kadam & Heena Dukhande i/b Kadam & Co. for the respondent No.9.

CORAM: R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED: 02ND MARCH, 2006

P.C. :

. Heard Mr. Shyam Diwan, the learned senior counsel for the appellants, Mr. Virag Tulzapurkar, the learned senior counsel for the respondent No.1, Dr. Virendra Tulzapurkar, the learned senior counsel for respondent No.9 and Mr. D.J. Khambatta, the learned

senior counsel for respondent No.2.

2. Having heard the learned senior counsel for quite some time, we are of the view that the impugned order needs to be modified by the following order:

(i) Subject to the appellant (defendant No.8) furnishing Bank Guarantee in the sum of Rs.50,00,000/- to the satisfaction of the Prothonotary & Senior Master of this Court within one week from today, the ad-interim order directing the defendant No.11 to deposit a sum of Rs.1 crore shall remain stayed and the defendant No.11 (respondent No.9) shall, as per the agreement entered into with defendant No.8, make the payment to defendant No.8 as per their arrangement and that the agreement between defendants No.8 and 11 shall remain unaffected by the impugned order. It needs no clarification that the order shall come into operation only on furnishing of Bank Guarantee as directed above.

(ii) In case Bank Guarantee is not furnished by the appellant (defendant No.8) within one week from today, the defendant No.11

(respondent No.9) shall deposit the amount of Rs.1 crore as directed by the learned Motion Judge on 10th March, 2006.

(iii) The appellant (defendant No.8) shall intimate the furnishing of the Bank Guarantee to defendant No.11 (respondent No.9) as soon as it is furnished.

3. Hearing of the Notice of Motion is expedited.

4. Appeal stands disposed of accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[ANOOP V. MOHTA, J.]